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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,388	02/20/2002	J. David Carlson	IR-2881(EV)	8462
7590	06/02/2004		EXAMINER	
Michael M. Gnimbus Lord Corporation 111 Lord Drive PO Box 8012 Cary, NC 27512-8012			BUTLER, DOUGLAS C	
			ART UNIT	PAPER NUMBER
			3683	
DATE MAILED: 06/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	<i>M</i>
	10/079,388	CARLSON ET AL.	
Examiner	Art Unit		
Douglas C. Butler	3683		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 19 February 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-19,22-24 and 26-32 is/are pending in the application.  
4a) Of the above claim(s) 1-19 and 26-32 is/are withdrawn from consideration.  
5)  Claim(s) 22-24 is/are allowed.  
6)  Claim(s) \_\_\_\_\_ is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) 1-19,22-24,26-32 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 2/19/04 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
2. The amendment filed Feb. 19, 2004 has been entered. The submitted drawings are acceptable.
3. Claims 22-24 are allowed.
4. Claims 1-19 and 26-32 are withdrawn from consideration under 37CFR 1.142(b) as being drawn to non-elected species, there being no allowable generic claim.
5. This application is in condition for allowance except for the presence of claims 1-19, 26-32. Applicants are given one Month or Thirty Days from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action. Failure to take action during this period will be treated as authorization to cancel claims 1-19, 26-32 and pass the case to issue with claims 22-24. Applicants may elect to call the examiner re authorization.
6. Note that claims 26-28 depend on canceled claims.
7. Claims 20-21, 25, 33-35 have been canceled.

8. Claim 22 is considered to be patentable since the prior art does not disclose, teach, suggest and/or render obvious the combination of claim 22, lines 1-5 with the feature of claim 22, lines 5-13 of "a brake for limiting vibration in said apparatus, said brake comprised of first and second spaced apart members, the second member being movable relative to the first member; a contact member made integral with the second member, said contact member having a contact end proximate the movable member; biasing means for increasing the distance between the members; and means for limiting the relative displacement between said members, said means for limiting the relative member displacement being activated when power is supplied to the apparatus and deactivated when power to the apparatus is lost."

9. Holper (2960190) discloses a "stick type" brake 302 in Fig 3B operable upon power loss to apply a brake but lacks the specific claimed brake. Also, the suggestion or motivation for modifying of prior art of record to include Holper's device seems to be lacking.

10. The examiner requests that applicants provide the current status of examination proceedings for WO 03/072976 A1 previously made of record on Nov. 17, 2003 in paper 7.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner can normally be reached on Monday to Friday from 5:30 a.m. to 2 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Lavinder, can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*DCB* 5/21/04

DOUGLAS C. BUTLER  
PRIMARY EXAMINER

*Av3683*

Butler/vs  
May 19, 2004